

MANDATE

04-410233
USDC/MA
Woodstock, IL

United States Court of Appeals For the First Circuit

No. 04-2712

MICHAEL BLACK,
Petitioner, Appellant,

v.

DAVID L. WINN, WARDEN AT F.M.C. DEVENS,
Respondent, Appellee.

Before

Selya, Circuit Judge,
Stahl, Senior Circuit Judge,
and Lynch, Circuit Judge.

JUDGMENT

Entered: May 4, 2005

The government's motion for summary disposition is granted. We agree with the district court that the proper forum for petitioner's claims pursuant to Crawford v. Washington, 541 U.S. 36 (2004) is the sentencing court, in this case the United States District Court for the Northern District of Illinois. See United States v. Barrett, 178 F.3d 34, 50 n.10 (1st Cir. 1999), cert. denied, 528 U.S. 1176 (2000). Because petitioner does not challenge the execution of his sentence, but, rather, challenges the constitutional validity of his conviction, §2255, and not §2241, is the proper vehicle for his Crawford claim. Id. Additionally, because petitioner does not substantiate his bald claim that he is "actually innocent," he is not eligible to file a §2241 petition pursuant to the savings clause of §2255. See Jeffers v. Chandler, 253 F.3d 827, 830-31 (5th Cir. 2000), cert. denied 534 U.S. 1001 (2001).

Therefore, after careful review of the parties' filings and the recrd, the judgment of the district court dismissing petitioner's §2241 petition is summarily affirmed. See 1st Cir. R. 27(c).

By the Court:

**Certified and Issued as Mandate
under Fed. R. App. P. 41.**

Richard Cushing Donovan, Clerk.

Richard Cushing Donovan, Clerk

MARGARET CARTER


Deputy Clerk

By: _____
Chief Deputy Clerk.

Date: 6/29/05

[cc: Michael Black, Michael J. Sullivan, USA,
Dina Michael Chaitowitz, AUSA]